

## REMARKS

Claims 1-7 were rejected as being unpatentable under 35 UCS §101. Reconsideration and withdrawal of these rejections are respectfully requested.

Claims 1-7 and 11-24 were rejected as being unpatentable over the applicant's background in view of Boarman and Das. Reconsideration and withdrawal of these rejections are respectfully requested, for the reasons to follow.

Claim 1 has been amended as follows:

1. (Currently Amended) A computer-implemented method of conducting ~~an~~ a two-phase auction for an item over a computer network, comprising the steps of:

during a first phase:

setting a current asking price for the item and storing the current asking price in a database coupled to a server that is accessible over the computer network;

posting the current asking price and enabling bidding at the current asking price over the computer network;

periodically decreasing and posting the current asking price until a first bid is received from a first bidder over the computer network at the then current asking price, and price, the first bid marking an end to the first phase and a beginning of a second phase of the two phase auction;

during the second phase:

accepting successive bids that are placed later in time and that are higher than the first bid within a predetermined time interval from at least one of the first bidder and the at least one additional bidder, and

awarding the item to a highest bidder among the first bidder and the at least one additional bidder

~~awarding the item to the first bidder at the then current asking price unless, after the first bid is received, at least one additional bidder bids higher than the first bid within a predetermined time interval after the first bid is received.~~

As the Examiner will note, the claims have been amended to positively recite a two-phase auction that includes a first phase and a first bid placed during the first phase that marks the end of the first phase and the beginning of the second phase. During the second phase, successive

bids are received that are both later in time and higher than the first bid. The item is then awarded to the highest bidder during the second phase.

The newly-amended claims now require that the second phase of the auction take place and that bids during the second phase are both higher than the first bid and are placed later in time than the first bid received during the first phase of the two phase auction.

The Office, on page 4 of the outstanding Office Action, has stated that this is shown by Das et al, and highlights paragraph [0054] thereof that discloses “continuous double auctions”. However, such so-called “continuous double auctions” are unrelated to the present two-phase auctions. Indeed, paragraph [0054] of Das al. set out a method in which a bid queue is maintained such that if a bid is exceeded, that bid is not removed, but merely moved down to a lower position in the bid queue. This is done so that, if a winning bid cannot pay, the next highest bid in the queue is declared the winner. This acts sort of as an insurance policy for the seller, in that he or she preserves non-winning bids, should they be needed later on, in case of non-performance of the winning bidder or for any other reason. However, such bids that are pushed down a queue are not a) higher than the last and winning bid (by definition) and are b) not placed later in time than the winning bid, as required by the pending claims. As the Examiner will note, both a) and b) are now required by the claims. Das et al.’s “continuous double auctions”, as the Examiner will no doubt realize, are completely different animals than the claimed embodiments. The applied combination of references, therefore, does not teach or suggest the claimed embodiments. Indeed, the applied combination does not teach or suggest any two phase auction in which a first bid marks the end of one phase and the beginning of another, nor any auction in which the operating principles governing the conduct of the auction change from one phase to another, as claimed herein:

periodically decreasing and posting the current asking price until a first bid is received from a first bidder over the computer network at the then current asking price, and price, the first bid marking an end to the first phase and a beginning of a second phase of the two phase auction;

during the second phase:

accepting successive bids that are placed later in time and that are higher than the first bid within a predetermined time interval from at least one of the first bidder and the at least one additional bidder, and

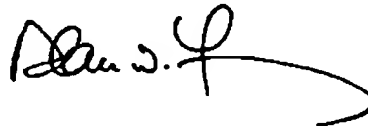
awarding the item to a highest bidder among the first bidder and the at least one additional bidder

In view of the foregoing, reconsideration and withdrawal of the 35 USC §103(a) rejections are, therefore, respectfully requested.

This amendment is believed to be properly enterable after final rejection, as the subject matter added to the independent claims was taken from previously-considered dependent claims, as the claims have been distinguished from the applied combination of references and as a number of claims have been canceled. Allowance of the present application, therefore, is believed to be warranted, without requiring the applicant to file an RCE and re-prosecute this application.

It is believed that the present application is now in condition for allowance. In the event that the Examiner has any questions relating to this application, the Examiner need only telephone the undersigned, and whatever is required will be done at once.

Respectfully submitted,



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By: \_\_\_\_\_

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